

The Commission approved the trading of options on narrow-based indexes in 1982 and it approved the trading of stock index warrants in 1988.⁴ Because the Commission has experience regulating warrants, the Phlx does not believe that the listing of warrants on narrow-based stock indexes will present any novel regulatory issues and, therefore, should be permitted on the same basis as warrants overlying broad-based indexes.

To conform the trading of warrants on narrow-based indexes to the rules applicable to options on narrow-based indexes, the Exchange proposes that the same margin requirements applicable to short sales of narrow-based index options apply to warrants overlying the same index. In addition, the Exchange proposes to apply a position limit structure similar to that which is applicable to narrow-based index options. Accordingly, the Exchange proposes to establish position limits for narrow-based index warrants at three separate, fixed-tier amounts (4,500,000, 6,750,000, and 9,000,000), the applicable level being determined by the level of index component concentration.⁵ These levels are equivalent to 75% of the position limits currently applicable to narrow-based index options. Because broad-based index warrant position limit levels were established at approximately 75% of the corresponding levels for broad-based index options, the Exchange believes it is appropriate to establish narrow-based index warrant position limits at the corresponding level applicable to narrow-based index options.⁶

Also consistent with the existing regulatory framework for broad-based warrants, the issuer may elect to use closing prices for the securities underlying the index to determine settlement values at all times other than the day on which the final settlement value is to be determined ("valuation date"), as well as during the two business days preceding valuation date.⁷ Finally, the Exchange represents

that it will not list a warrant on an index consisting of fewer than nine stocks unless the SEC separately approves such index for warrant trading. In addition, the Phlx will impose a maintenance standard that requires an index to have at least nine stocks at all times, unless separately approved by the SEC.⁸

In all other respects, the Exchange represents that the rules applicable to the trading of broad-based and narrow-based index options are the same. Accordingly, it proposes that all other rules applicable to broad-based index warrants apply equally to warrants on narrow-based indexes. Finally, the Exchange represents that it will surveil trading in narrow-based index warrants in a similar manner to the surveillance of trading in broad-based index warrants.

Upon approval of this filing, the Exchange proposes that additional Commission review of a specific narrow-based warrant issuance will be required only for warrants overlying narrow-based indexes that have not previously been approved by the SEC for option or warrant trading. Thus, upon approval of this filing, the Exchange proposes it be permitted to list a warrant on any narrow-based index that the SEC has already approved for option trading.⁹

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change will reduce or eliminate a burden on competition by allowing the listing of warrants on narrow-based indexes in the same manner as options on narrow-based indexes.

⁸ See Amendment No. 1.

⁹ In order to expedite SEC review of a particular warrant issuance, the Exchange may file for approval of the index underlying the proposed warrants pursuant to the procedures and criteria set forth in Rule 1009A. These criteria establish streamlined procedures for listing options on stock industry groups (*i.e.*, narrow-based). Accordingly, the Exchange proposes that the same criteria apply to subsequent proposals to establish narrow-based indexes which underlie proposed warrant issuances.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR-Phlx-95-76 and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Margaret H. McFarland,

Deputy Secretary.

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¹⁰ 17 CFR 200.30-3(a)(12) (1994).

⁴ See Securities Exchange Act Release Nos. 19264 (Nov. 22, 1982) and 26152 (Oct. 3, 1988).

⁵ See Amendment No. 1.

⁶ The position limit tiers have been established at levels that represent 75% of the levels recently approved by the SEC in connection with a Phlx proposal to increase position limits for narrow-based index options. See Securities Exchange Act Release No. 36194 (Sept. 6, 1995). Accordingly, the Exchange proposes that position limits for narrow-based index warrants be set at roughly 75% of the 6,000, 9,000 and 12,000 position limit levels.

⁷ See Amendment No. 1. The Commission notes that although the recently approved regulatory framework for broad-based index warrants establishes uniform settlement provisions for all exchanges, the Phlx in this filing proposes to amend Section 803(e)(3) to clarify its rule language.

[Release No. 34-36528; File No. SR-CBOE-95-58]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to Listing Standards for Options on Equity Securities Issued in a Reorganization Transaction Pursuant to a Public Offering or a Rights Distribution

November 29, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 19, 1995, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Chicago Board Options Exchange, Inc. ("CBOE or the Exchange") proposes to amend its listing standards in respect of options on equity securities issued in a spin-off, reorganization, recapitalization, restructuring or similar transaction where the issuance is made pursuant to a public offering or a rights distribution.

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to amend the special listing standards set forth in Interpretation and Policy .05 under Exchange Rule 5.3 that apply to options on equity securities issued in certain spin-offs, reorganizations, recapitalizations, restructurings or similar transactions (referred to herein as "restructuring transactions") so as to also include securities issued pursuant to a public offering or a rights distribution that is part of a restructuring transaction.

Interpretation and Policy .05 under Exchange Rule 5.3 is intended to facilitate the listing of options on equity securities issued in restructuring transactions (referred to as "Restructure Securities") by permitting the Exchange to base its determination as to the satisfaction of certain of the listing standards set forth in Exchange Rule 5.3 and Interpretation and Policy .01 thereunder by reference to specified characteristics of the "Original Security" in respect of which the Restructure Security was issued or distributed or of the trading market of the Original Security, or by reference to the number of shares of the Restructure Security issued and outstanding or to the listing standards of the exchange on which the Restructure Security is listed. Interpretation and Policy 5.3.05 permits the Exchange to certify a Restructure Security as options eligible sooner than if it had to wait until it could base its certification on characteristics of the Restructure Security itself, but only in circumstances where the factors relied upon make it reasonable to conclude that the Restructure Security will in fact satisfy applicable listing criteria.

As recently approved by the Commission, CBOE Interpretation and Policy 5.3.05 does not extend to restructuring transactions involving the issuance of a Restructure Security in a public offering or a rights distribution.³ Although these kinds of restructuring transactions were included in Interpretation and Policy 5.3.05 as initially filed, CBOE subsequently amended that filing to eliminate them in order to permit the Commission to approve that filing without having to address the special questions raised by public offerings and rights distributions. At that time it was anticipated that CBOE would file a separate rule change proposing the extension of

Interpretation and Policy 5.3.05 to restructuring transactions that involve public offerings and rights distributions.⁴

The question raised by the proposed extension of Interpretation and Policy 5.3.05 to reorganization transactions involving public offerings or rights distributions reflect that when a Restructure Security is issued in a public offering or pursuant to a rights distribution, it cannot automatically be assumed that the shareholder population of the Restructure Security and the Original Security will be the same. Instead, the holders of a Restructure Security issued in a public offering will be those persons who subscribed for and purchased the security in the offering, and the holders of a Restructure Security issued in a rights distribution will be those persons who elected to exercise their rights. Even in the case of a distribution of nontransferable rights to shareholders of the Original Security, not all such shareholders may choose to exercise their rights. As a result, it cannot be assumed that the Restructure Security will necessarily satisfy listing criteria pertaining to minimum number of holders, minimum public float and trading volume simply because the Original Security satisfied these criteria.

On the other hand, the Exchange believes that the same reasons for wanting to make an options market available without delay to holders of securities issued in reorganizations that do not involve public offerings or rights distributions apply with equal force to securities issued in reorganizations that do involve public offerings or rights distributions, so long as there can be reasonable assurance that the securities satisfy applicable options listing standards. That is, holders of an Original Security who utilize options to manage the risks of their stock positions may well find themselves to be holders of both the Original Security and the Restructure Security following a reorganization because they chose to purchase the Restructure Security in a public offering or to exercise rights in order to maintain the same investment position they had prior to the reorganization. Such holders may want to continue to use options to manage the risks of their combined stock position after the reorganization, but they can do so only if options on the Restructure Security are available. The Exchange

⁴ See Letter from Michael L. Meyer, Attorney, Schiff Hardin & Waite, to Sharon M. Lawson, Assistant Director, Office of Market Supervision ("OMS"), Division of Market Regulation ("Market Regulation"), Commission, dated June 13, 1995 ("File SR-CBOE-95-11 Letter").

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 36020 (July 24, 1995), 60 FR 39029 (July 31, 1995) (order approving CBOE Interpretation and Policy 5.3.05).

believes that it is important to avoid any undue delay in the introduction of options trading in such a Restructure Security in circumstances where there is sound reason to believe that the Restructure Security does in fact satisfy options listing standards.

Accordingly, CBOE proposes to add new paragraph (d) to Interpretation and Policy .05 under Exchange Rule 5.3, to address situations where a Restructure Security is issued pursuant to a public offering or rights distribution. Pursuant to the proposed rule change, the Exchange may certify the Restructure Security as satisfying minimum shareholder and minimum public float requirements on the basis provided for in approved Interpretation and Policy .05(c), only after at least five days of "regular way" trading. Moreover, after due diligence, the Exchange must have no reason to believe that the Restructure Security does not satisfy these requirements. Additionally, in order to base certification on Interpretation and Policy 5.3.05, the closing prices of the Restructure Security on each of the five or more trading days prior to the selection date must be at least \$7.50. Finally, as is required for all underlying securities selected for options trading, trading volume in the Restructure Security must be at least 2,400,000 shares during a period of twelve months or less up to the time the security is so selected.

The effect of the proposed rule change is that a Restructure Security issued pursuant to a public offering or a rights distribution that is part of a reorganization will be eligible for options trading only if it satisfies all of the existing standards applicable to the selection of underlying securities generally, except that (A) the Exchange may assume the satisfaction of the minimum public ownership requirement of 7,000,000 shares and the minimum 2,000 shareholders requirement if (i) either the percentage of value tests of subparagraph (a)(1) of Interpretation and Policy 5.3.05 are met or the aggregate market value represented by the Restructure Security is at least \$500,000,000, and if (ii) the Restructure Security is listed on an exchange or an automatic quotation system having equivalent listing requirements or at least 40,000,000 shares of the Restructure Security are issued and outstanding, and if (iii) after the Restructure Security has traded "regular way" for at least five trading days and after having conducted due diligence in the matter, the Exchange has no reason to believe that these requirements are not met, and (B) subject to the same percentage of value

or aggregate market value requirements, the Restructure Security may be deemed to satisfy the minimum market price per share requirement if it has a closing market price per share of at least \$7.50 during each of the five or more trading days preceding the date of selection, instead of having to satisfy this requirement over a majority of days over a period of three months. (In the event the Restructure Security has a closing price that is less than \$7.50 on any of the trading days preceding its selection, it will have to satisfy this requirement on a majority of trading days over a period of three months before it can be certified as eligible for options trading.) For any Restructure Security issued in a public offering or a rights distribution that does satisfy these requirements, the effect of the proposed rule change will be to permit its certification for options trading to take place as early as on the sixth day after trading in the stock commences, instead of having to wait for three months of trading.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Securities Exchange Act of 1934 in general, and furthers the objectives of Section 6(b)(5) in particular, by removing impediments to a free and open market in options covering securities issued in public offerings or pursuant to rights distributions as part of restructuring transactions and other similar corporate reorganizations.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose on any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

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IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to the File No. SR-CBOE-95-58 and should be submitted by December 27, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁵

Margaret H. McFarland,

Deputy Secretary.

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SMALL BUSINESS ADMINISTRATION

[License No. 01/71-0364]

Geneva Middle Market Investors, L.P.; Issuance of a Small Business Investment Company License

On Tuesday, August 29, 1995, a notice was published in the Federal Register (Vol. 60, No. 167, FR 44929) stating that an application had been filed by Geneva Middle Market Investors, L.P., at 70 Walnut Street, Wellesley, Massachusetts 02181, with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102 (1995)) for a license to operate as a small business investment company.

Interested parties were given until close of business Wednesday, September 13, 1995 to submit their

⁵ 17 CFR 200.30-3(a)(12).